

STATE OF NEW JERSEY  
BUREAU OF SECURITIES  
P.O. Box 47029  
Newark, New Jersey 07101  
(973) 504-3600

IN THE MATTER OF: \_\_\_\_\_ :

EXEMPTION FOR OFFERS AND :  
SALES TO ACCREDITED

ORDER

INVESTORS PURSUANT TO A :  
PUBLIC SOLICITATION \_\_\_\_\_ :

WHEREAS, the Chief of the New Jersey Bureau of Securities ("Bureau") is charged with the administration of the Uniform Securities Law (1997) (the "Law"), N.J.S.A. 49:3-47 et seq., and the Regulations, N.J.A.C. 13:47A-1.1 et seq., promulgated under the Law;

WHEREAS, N.J.S.A. 49:3-67(a) provides, in part, that, "[t]he bureau chief may from time to time make, amend and rescind such rules, forms, and orders as are reasonably necessary to carry out the provisions of this law...;"

WHEREAS, N.J.S.A. 49:3-50(b)(13) provides that, "[t]he bureau chief, by rule or order, as to a particular transaction or class of transactions, may adopt a transactional exemption (i) that will further the objectives of compatibility with the exemptions from securities registration authorized by the "Securities Act of 1933" and uniformity among the states, or (ii) if the bureau chief determines that the public interest does not require registration.";

WHEREAS, the North American Securities Administrators Association adopted the Model Accredited Investor Exemption on April 27, 1997 at Washington, D.C. as a mechanism to foster small business capital formation and recommended the Exemption to its membership, including the Bureau of Securities, and the Bureau Chief has determined that implementation of the Exemption in New Jersey is compatible with uniformity among the states and the public interest does not require registration;

THEREFORE IT IS on this 23rd day of March, 1998 HEREBY ORDERED that:

Pursuant to the authority of the Bureau Chief provided by N.J.S.A. 49:3-50(b)(13), any offer or sale of a security by an issuer in a transaction that meets the requirements of this order and any exemption adopted by the Securities and Exchange Commission pursuant to Section 3(b) of the Securities Act of 1933 which provides for public solicitation of accredited investors, shall be exempt from registration pursuant to N.J.S.A. 49:3-50(b)(13).



(A) Sales of securities shall be made only to persons who are or the issuer reasonably believes are accredited investors. "Accredited investor" is defined in N.J.S.A. 49:3-49(p).

(B) The exemption is not available to an issuer that is a "blind pool" as defined in N.J.S.A. 49:3-49(r), or is in the development stage that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.

(C) The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within 12 months of sale shall be presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under sections N.J.S.A. 49:3-61, 61.1 or to an accredited investor pursuant to an exemption available under N.J.S.A. 49:3-50. Securities issued under this exemption may only be resold pursuant to registration or an exemption under the Uniform Securities Law (1997), N.J.S.A. 49:3-47 et seq.

(D)(1) The exemption is not available to an issuer if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of 10% or more of any class of its equity securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director or officer of such underwriter:

(a) within the last five years, has filed a registration statement which is the subject of a currently effective registration stop order entered by any state securities administrator or the United States Securities and Exchange Commission;

(b) within the last five years, has been convicted of any criminal offense in connection with the offer, purchase or sale of any security, or involving fraud or deceit;

(c) is currently subject to any state or federal administrative enforcement order or judgment, entered within the last five years, finding fraud or deceit in connection with the purchase or sale of any security; or

(d) is currently subject to any order, judgment or decree of any court of competent jurisdiction, entered within the last five years, temporarily, preliminary or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.



(2) Subparagraph (D)(1) shall not apply if:

(a) the party subject to the disqualification is licensed or registered to conduct securities related business in the state in which the order, judgment or decree creating the disqualification was entered against such party;

(b) before the first offer under this exemption, the state securities administrator, or the court or regulatory authority that entered the order, judgment, or decree, waives the disqualification; or

(c) the issuer establishes that it did not know and in the exercise of reasonable care, based on a factual inquiry, could not have known that a disqualification existed under this paragraph.

(E)(1) A general announcement of the proposed offering may be made by any means.

(2) The general announcement shall include only the following information, unless additional information is specifically permitted by the Bureau Chief:

(a) The name, address and telephone number of the issuer of the securities;

(b) The name, a brief description and price (if known) of any security to be issued;

(c) A brief description of the business of the issuer in 25 words or less;

(d) The type, number and aggregate amount of securities being offered;

(e) The name, address and telephone number of the person to contact for additional information; and

(f) A statement that:

(i) sales will only be made to accredited investors;

(ii) no money or other consideration is being solicited or will be accepted by way of this general announcement; and

(iii) the securities have not been registered with or approved by any state securities agency or the U.S. Securities and Exchange Commission and are being offered and sold pursuant to an exemption from registration.

(F) The issuer, in connection with an offer, may provide information in addition to the general announcement under paragraph (E), if such information:

(1) is delivered through an electronic database that is restricted to persons who have been prequalified as accredited investors; or

(2) is delivered after the issuer reasonably believes that the prospective purchaser is an accredited investor.

(G) No telephone solicitation shall be permitted unless prior to placing the call, the issuer reasonably believes that the prospective purchaser to be solicited is an accredited investor.

(H) Dissemination of the general announcement of the proposed offering to persons who are not accredited investors shall not disqualify the issuer from claiming the exemption under this rule.

(I) The issuer shall file with the Bureau of Securities a notice of transaction, a consent to service of process, a copy of the general announcement, and a \$250.00 fee within 15 days after the first sale in this State. The Model Accredited Investor Exemption Uniform Notice of Transaction Form shall be used to comply with the requirement to file a notice of transaction with the Bureau of Securities.

This Order shall remain in effect unless and until subsequently amended or rescinded by the Bureau Chief.

By: Franklin L. Widmann  
Franklin L. Widmann  
Chief, Bureau of Securities